

Workforce Investment Act

Eligibility Technical Assistance Guide

Prepared By
Local Eligibility Advisory Workgroup and
Workforce Investment Division

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Workforce Investment Act Eligibility Technical Assistance Guide

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I. LOCAL FLEXIBILITY

The Workforce Investment Act (WIA, the Act) provides local areas increased flexibility to implement systems that best suit the needs of local communities. The State of California supports the idea that local workforce investment areas (local area) are best positioned to exercise this flexibility, which aids in ensuring a strong role for local boards in California's workforce investment system.

Wherever authority is reserved for a local area to develop eligibility policies, procedures, and definitions consistent with federal authorizing laws and regulations, the local area should incorporate its own eligibility policies, procedures, and definitions in this technical assistance guide. Federal and State program auditors and monitors will verify that the local eligibility policies, procedures, and definitions have been communicated and implemented within the local area. Local policy must be consistent with State and federal policy. In cases where the State or Department of Labor (DOL) adopts a policy subsequent to policy established at the local level, changes to the local policy may be required to bring it into compliance with federal or State requirements. Current State requirements are printed in bold, italic type.

Local areas are required to develop their own policies, procedures, criteria, and definitions of eligibility, to ensure that federal requirements are consistently interpreted and applied by front line staff. This will assist the monitors in conducting reviews and avoid any confusion or misinterpretation of the federal requirements that could potentially result in disallowed costs.

This publication is formatted to allow local areas to key enter their eligibility policies, procedures, and definitions. Areas of local flexibility are discussed below. **Background** material and **Items to Consider** prepared by the eligibility advisory workgroup accompany each item. Following each presentation is an **electronic link** to the page where the local areas may key enter their policies, procedures, criteria, or definitions related to each area of flexibility. Additional areas of flexibility are discussed in Sections II, III, IV, VII, and VIII.

Supplemental guidance will be published as needed throughout the year and should be attached to the current year's version of the Technical Assistance Guide (TAG). The supplemental guidance will be incorporated into the TAG annually in June of each program year. The revisions to the TAG will only require copying and pasting your local policy, procedures and definitions into the newly released version. Although the pagination may change, we will make an effort to maintain the format, i.e., the text form fields will be in the same order and the instructions for them will hopefully remain unchanged.

Procedures and Eligibility Criteria for the Three Tiers of Service

Background: In her October 4, 2001 statement to the Committee on Health, Education, Labor and Pensions United States Senate, the Assistant Secretary of Labor for Employment and Training, reported that:

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Some state and local boards have not established clear procedures and eligibility criteria for the three tiers of service: staff-assisted core services, intensive services, and training services.

Emily Stover DeRocco

Local areas that comply with the requirements of this TAG have established clear procedures and eligibility criteria for the three tiers of services.

Items to consider: WIA is the nation's job training system for individuals that are unable to obtain other grant assistance for training or require assistance in addition to other grant assistance training programs.

Local areas cannot adopt a “work first” approach in developing local procedures and eligibility criteria for the three tiers of service. The adult and dislocated worker programs are not “work first” programs. Locally developed procedures and criteria must be designed to provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities [WIA Section 195]. The appropriate mix and duration of services should be based on each participant's unique needs.

Participants may receive the three levels of service concurrently and the determination that an individual needs intensive and/or training services can be made without regard to how long the individual has been receiving core or intensive services. Neither is it necessary for all individuals to receive staff-assisted core services before receiving intensive services. In addition, job search is not the only core service that satisfies the federal requirement that an individual must receive at least one core service before receiving intensive services. Such decisions are based on each participant's employment and training needs.

In developing local procedures and eligibility criteria for the three tiers of service, WIA-funded adult and dislocated worker services may not duplicate or supplant services traditionally funded by the Wagner-Peyser Act. (This does not preclude cooperative efforts among one-stop partners to provide seamless and comprehensive services to one-stop customers.)

Local areas and one-stop operators should not adopt a “work first” approach in designing activities that lead from participation in core to intensive and training services. These activities should not be used to discourage individuals from participating in the program or to excuse local areas and one-stop operators from serving individuals. Both the State and the DOL view such activities as potential obstacles to the success of this program resulting in low enrollments and poor customer service.

Eligibility Documentation and Verification

Background: The Act and the regulations do not address the issues of eligibility documentation and verification. The DOL has not yet provided eligibility documentation and verification guidance; however, DOL allows considerable state and local flexibility in this area. Therefore, local areas are at liberty to establish their own documentation and verification policy and procedures.

The documentation and verification process should be customer friendly and not add to the frustrations already experienced by individuals who are out of work. It is the purpose of WIA programs to assist people who are having difficulty finding employment. It is not the intention of this program to discourage participation by imposing difficult documentation and verification requirements. Local areas have the flexibility and local discretion to design documentation and verification systems that are less burdensome than the predecessor programs. Section X of this technical assistance guide includes a form for local areas to use in developing their own lists of acceptable documentation. Sample tables of acceptable documentation are also included (*Attachment 2*) for local areas to adopt if they choose not to develop their own. Section IX includes a text form field for local areas to record their eligibility documentation and verification policy, procedures, and definitions. ***One-stop operators and applicants must make reasonable efforts to document eligibility for WIA-funded programs. However, the use of applicant statements is allowable to document those items that are not verifiable or are not readily available. The applicant's difficulty in obtaining documentation does not need to entail privation or suffering (undue hardship) to justify using an applicant statement.***

In taking an applicant's statement, it is not necessary to obtain corroboration unless there is reason not to believe the applicant.

An applicable male's compliance with the Military Selective Service (see Attachment 3) and an adult's eligibility to work should be documented as required.

Items to consider: It is not necessary to determine that an adult is eligible in accordance with the priority system until it is determined that the individual is in need of intensive services, and, then, only if there is a priority system locally in effect. One-stop operators only need to record equal opportunity information (the race/ethnicity, sex, age, and where known, disability status), record and document the right-to-work, age, and compliance with the Selective Service registration requirement. If an adult is unable to obtain or retain employment through staff-assisted core services and requires intensive services, the remaining federal, State, and local documentation and verification requirements must be met before providing intensive services. To be eligible to receive staff-assisted core services as a dislocated worker, an individual must be determined to meet the definition of "dislocated worker" (Section 663.105). The tiered service structure does not apply to youth. All youth must be registered (Section 664.215) and must be determined to meet the eligibility criteria described in Section 664.200.

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Eligibility for Services and Case Files

Background: The Act distinguishes between general program eligibility and eligibility for services. General program eligibility includes federally imposed criteria including right-to-work, Selective Service registration, age, targeted populations, and youth barriers. Eligibility for services is related to local determinations about the client's need for and ability to benefit from services. Adult and dislocated worker case files must contain determinations of the need for staff-assisted core, intensive and training services. These may be hard copy or electronic case files [Title 20 CFR 663.160(b) and 663.240(b)]. Prudence requires local areas to provide guidance to one-stop operators and case managers about the factors that should be considered in making these decisions, and how these decisions should be documented in a participant's case file [see Documentation and Verification].

When reviewing a participant's eligibility for staff-assisted core, intensive and training services, federal and State auditors and monitors will review a participant's eligibility for services against each area's eligibility policy, guidance, procedures, criteria, and definitions. Local eligibility policies and procedures must comply with federal and State requirements.

Items to consider: A participant is required to receive at least one intensive service before moving on to a training service. If the local area requires an individual employment plan, this would fulfill the intensive service requirement and provide an opportunity to document the training service provided. Local areas may develop forms to document these items or provide guidance to case managers about what information must be included in the case manager's notes.

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Deficient in Basic Literacy Skills

Background: Definitions and eligibility documentation requirements regarding the *deficient in basic literacy skills requirement* criterion may be established at the local level.

These definitions may establish criteria needed to address local concerns, and must include a determination that an individual:

1. Computes or solves problems, reads, writes, or speaks English at or below the 8th grade level¹ on a generally accepted standardized test or a comparable score on a criterion referenced test, or
2. Is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family or in society.

[Reference: WIA Section 203(12) and Title 20 CFR Section 664.205]

¹ The term "at or below the 8th grade level" means at or below 8.9.

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The terms basic literacy skills and basic skills deficient are not identical. Basic literacy skills are a criterion for eligible youth. Basic skills deficient is used to determine whether out-of-school youth and the five percent youth standards are met.

Basic skills deficient means that an individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion referenced test. The Act does not provide local areas the flexibility to further define basic skills deficient.

Although the terms are different, youth goals may be developed for basic skills and basic literacy skills and their attainment may be reported for performance.

Items to consider: The Act and the regulations do not define the level of literacy necessary to function on the job, in the individual's family or in society. Survival skills such as computer skills, balancing a checkbook, budgeting a family's income, or filing a tax return, may be considerations when defining these areas. Such definitions may provide greater flexibility in achieving basic skills goals for an individual who is basic skills deficient and may have difficulty achieving an 8th grade level of literacy within a specified program period.

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Local Dislocated Worker Policy and Procedures

Background: Local boards may establish policies and procedures for one-stop operators to use in determining an individual's eligibility as a dislocated worker consistent with the definition at WIA Section 101(9). These policies and procedures may address such conditions as:

- (1) *General announcement of plant closing;*
- (2) *Unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;*
- (3) *Difficulty in obtaining or upgrading employment;*
- (4) *Substantial layoff;*
- (5) *Sufficient attachment to the workforce; and*
- (6) *Unlikely to return.*

Items to consider:

- (1) The *general announcement* of plant closing criterion may include, among other things, a newspaper article or public notice. It is important to have a credible source of information, or a documented confirmation from the employer.

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- (2) The *as a result of general economic conditions in the community in which the individual resides* criterion may include, among other conditions, self-employment

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which locally has little demand or has been declining, or the local economy is declining.

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- (3) The *difficulty in obtaining or upgrading employment* criterion is used as part of the displaced homemaker criteria but is not defined in the Act or regulations and there is no reference that this term must be defined by the State or local area. Local areas may want to define this term in order to assist staff in identifying displaced homemakers.

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- (4) The *substantial layoff* criterion is not defined in the Act or the regulations. Locally defining this term will assist staff in identifying individuals who are unemployed due to a substantial layoff (e.g., a substantial layoff may be one which affects at least 50 employees who worked 20 or more hours per week, and comprise at least one third of the lay-off employer's local workforce).

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- (5) The *sufficient attachment to the workforce* criterion is not defined in the Act or the regulations. Local areas may want to define this term to assist staff in identifying those dislocated workers who are not eligible for unemployment compensation but have been employed for a duration sufficient to demonstrate an attachment to the workforce (e.g., someone who has worked at least 3 consecutive months during the last 12 months).

[Reference: WIA Section 101(9)(A)(II)]

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- (6) The *unlikely to return* criterion is not defined in the Act or the regulations. Local areas may want to define this term to assist staff in identifying dislocated workers. Any of the following considerations may be helpful in defining *unlikely to return*:
- Worked in a declining industry/occupation, as documented on State or locally-developed lists of such industries/occupations. State lists are available from the Employment Development Department's (EDD) Labor Market Information Division. Local lists must be developed by an appropriate entity, such as the Chamber of Commerce, the Local Workforce Investment Board, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information.
 - Has had a lack of job offers as documented by the local Job Service/Unemployment Insurance (UI) office, rejection letters from employers in the area, or other documentation of unsuccessful efforts to obtain employment in the prior industry/occupation.
 - Worked in an industry/occupation job for which there are limited job orders in the EDD CalJOBS system at the time of eligibility determination, as certified by the local EDD field office or by one-stop staff with access to the CalJOBS database.

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- Is insufficiently educated and/or does not have the necessary skills for reentry into the former industry/occupation, as documented through the assessment of the client's educational achievement levels, testing, or other suitable means.
- Has physical or other problems, which would preclude reentry into the former industry/occupation, as documented by a physician or other applicable professional (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.).

Unlike the predecessor program, *unlikely to return* may be defined in terms of family, personal, or financial circumstances that may affect the likelihood of the individual's returning to his or her previous occupation or industry for employment. Local definitions do not need to be based solely on economic conditions and job availability.

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Staff-Assisted Core Services

Background: Individuals, who are primarily seeking information and do not seek direct, one-on-one staff assistance, do not need to be registered. Local areas may identify core services that require registration when a *significant degree of staff assistance* is given to clients, and when application and registration are required. For services other than self-service or informational activities, individuals must be registered. To be eligible to receive staff-assisted core services as a dislocated worker, an individual must meet the definition of dislocated worker [*Title 20 CFR 663.115*]. In addition, equal opportunity data must be collected on every individual who is interested in being considered for WIA Title I-B financially assisted aid, benefits, services, or training, and has signified that interest by submitting personal information in response to a request from the subrecipient [*Reference: Title 20 CFR Sections 663.105 through 663.120*].

It is not necessary to establish that an adult who is receiving staff-assisted core services is a recipient of public assistance or is a low-income individual. Staff-assisted core services may be provided to any enrolled adult who has the right to work in the United States and, if male, has complied with Selective Service registration. For example, a highly paid working professional seeking career counseling and advancement through job search and placement services is eligible for staff-assisted core services. However, such an individual would not be eligible to receive intensive and training services.

Items to consider: There are two main factors to consider when determining which core services require adults and dislocated workers to be registered and counted in the measures:

1. Level of staff involvement with the customer. When there is significant staff involvement in terms of resources or time, individuals receiving the staff-intensive core services are required to be registered for the adult or dislocated worker programs (all youth customers must be registered).

2. Purpose of the service. The Act specifically excludes those individuals who participate in self-service activities only (such as browsing the Internet). For staff-assisted activities, the purpose of the service should be examined to determine if registration is required for the service. Services that are designed to inform and educate individuals about the labor market and their employment strengths, weaknesses, and the range of services appropriate to their situations should be considered informational in nature. Staff-assisted services that are designed to impart job seeking and/or occupational skills should require registration.

[Reference: WIA Sections 101(1), 134(d)(2), 189(h), 188(a)(5), and TEGL 7-99]

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Self-Sufficiency

Background: WIA requires a determination that employed adult workers need intensive or training services to obtain or retain employment that allows for self-sufficiency as a condition for providing those services. Because there are different local conditions that should be considered in this determination, the federal regulations provide maximum flexibility to states and local areas, requiring only that self-sufficiency means employment that pays at least the lower living standard income level. In the absence of State policy, local boards must set criteria for determining whether employment leads to self-sufficiency. Local areas that develop their own definitions of self-sufficiency should make certain that the local definition means employment that pays at least the lower standard income level especially when family size is included as a factor *[Reference: Title 20 CFR Section 663.230]*.

Items to consider: There are different local conditions that should be considered in this determination. Factors such as family size, an area's cost of living, and other local economic conditions may be included in the criteria. It may often occur that dislocated workers require a wage higher than the lower living standard income level to maintain self-sufficiency. Self-sufficiency for a dislocated worker may be defined in relation to a percentage of the layoff wage.

The special needs of individuals with disabilities or other barriers to employment may also be considered when setting criteria to determine self-sufficiency.

This provision helps ensure that intensive services are provided to those employed adults who are the most in need of services. These may include individuals employed in low skill/low wage jobs.

The adoption of a definition of self-sufficiency allows a local area to broaden the population it serves (e.g., by including the working poor) while not negatively impacting performance measures. Those employed at the time of registration are excluded from the adult entered employment rate, i.e., programs are not held responsible for these individuals under this measure. They are included in other measures such as earnings change and retention and can enhance an area's performance while assuring services are provided to individuals who are above the poverty guidelines but not yet self-sufficient.

The local definitions of self-sufficiency are not standards for employment against which local areas are monitored; rather, self-sufficiency is a goal that the workforce investment system helps clients achieve. While the DOL recognizes the importance of self-sufficiency as a goal for all employment, it has not imposed that standard on the workforce investment system, and neither does the State. As an eligibility criterion, self-sufficiency is a service requirement and not an employment outcome.

Local boards may develop two sets of criteria for self-sufficiency, one for dislocated workers and another for adults. Self-sufficiency for dislocated workers may be defined in relation to a percentage of the layoff wage [*Reference: Title 20 CFR Section 663.230*].

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Requires Additional Assistance

Background: A low-income youth is eligible for services if he or she requires additional assistance to complete an educational program, or to secure and hold employment. Definitions and eligibility documentation requirements related to this criterion may be established at the local level [*Reference: Title 20 CFR Section 664.210*].

Items to consider: Examples of individuals who require additional assistance may include individuals who:

- Have repeated at least one secondary grade level or are one year over age for grade;
- Have a core grade point average (GPA) of less than 1.5;
- For each year of secondary education, are at least two semester credits behind the rate required to graduate from high school;
- Are emancipated youth;
- Have aged out of foster care;
- Are previous dropouts or have been suspended five or more times or have been expelled;
- Are court/agency referrals mandating school attendance;
- Are deemed at risk of dropping out of school by a school official;
- Have been referred to or are being treated by an agency for a substance abuse related problem;
- Have experienced recent traumatic events, are victims of abuse, or reside in an abusive environment as documented by a school official or other qualified professional;
- Have serious emotional, medical or psychological problems as documented by a qualified professional;
- Have never held a job (applies to older youth);

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- Have been fired from a job within the 12 months prior to application (applies to older youth); and
- Have never held a full-time job for more than 13 consecutive weeks (applies to older youth).

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Serious Barriers to Employment

The Act provides that up to five percent of youth participants served in a local area may be individuals who do not meet the income criteria for eligible youth, but meet one or more of the criteria specified in the Act [WIA Section 129(c)(5)]. Local boards may define the term *serious barriers to employment* and describe it in the local plan [Reference: Title 20 CFR Part 652 et al. Preamble, Subpart B—Eligibility for Youth Services, p. 49349].

The federal regulations require that the local definition of *serious barriers to employment* be included in the local plan. ***The State does not require that all the local area's eligibility policies, definitions, etc. be included in its local plan unless specifically required by the federal Act and/or regulations.***

Items to consider: Possible definitions/criteria similar to the examples used above may include youth who:

- Have repeated at least one secondary grade level or are one year over age for grade;
- Have a core GPA of less than 1.5;
- For each year of secondary education, are at least two semester credits behind the rate required to graduate from high school;
- Are emancipated youth;
- Have aged out of foster care;
- Are previous dropouts or have been suspended five or more times or have been expelled;
- Are court/agency referrals mandating school attendance;
- Are deemed at risk of dropping out of school by a school official;
- Have been referred to or are being treated by an agency for a substance abuse related problem;
- Have experienced recent traumatic events, are victims of abuse, or reside in an abusive environment as documented by a school official or other qualified professional;
- Have serious emotional, medical or psychological problems as documented by a qualified professional;
- Have never held a job (applies to older youth);

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- Have been fired from a job within the 12 months prior to application (applies to older youth); and
- Have never held a full-time job for more than 13 consecutive weeks (applies to older youth).

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II. WIA ELIGIBILITY DETERMINATION AND REGISTRATION

All adults and dislocated workers who receive services funded under Title I-B of WIA, other than self-service or informational activities (core services other than staff-assisted core services), must be determined eligible and registered. All youth must be determined eligible and registered in order to receive services funded under Title I-B of WIA.

For adults and dislocated workers, registration/enrollment occurs the first day on which the individual actually begins receiving staff-assisted core, intensive, or training services, or subsidized employment.

Once the application/eligibility process is completed and the documentation required to substantiate the client's eligibility for the program is obtained, and a decision is made to serve the individual, an enrollment form should be completed to enroll the individual into an activity.

There is no federal limit on how much time is allowed between the application date and enrollment/registration date, or how much time a local area has to document and verify eligibility. Many areas may be using 90 days as a general rule; however, there are no State mandated limits. Nevertheless, so much time should not elapse before enrollment/registration that it becomes unreasonable to assume the information about the individual is still true; otherwise, there may be disallowed costs associated with the individual's eligibility. In determining how much time is allowed between the application date and enrollment/registration date, local areas should be aware that delays in providing services reduce the number of days an individual will receive UI benefits while participating in WIA and increase the number of days an individual is not gainfully employed.

The application form may be updated at any time.

Include below your local policy and procedures for (a) the amount of time clients and staff have to obtain documentation; (b) the amount of time allowed to review an applicant's information and confirm eligibility; (c) the amount of time that can elapse between the application date and the enrollment date; and any other applicable guidance.

Policy and procedures for time limits covering the application process:

The completed enrollment/registration form represents the local area's intention to provide staff-assisted core, training, or intensive services, or subsidized employment. Once the individual actually begins to receive such services, the individual becomes a registered participant, and the information that is used in performance measurement begins to be collected.

Wherever there is a priority to serve low-income individuals and recipients of public assistance, it is not necessary to establish that an adult who is receiving staff-assisted core services is a recipient of public assistance or is a low-income individual. The priority only applies to the receipt of intensive and training services. The application form may be updated with this information at the time that it is determined that the individual needs and will receive intensive services. However, to be eligible to receive staff-assisted core services as a dislocated worker, an individual must meet the definition of “dislocated worker.”

Individuals for whom eligibility has been verified, and who have been determined eligible for multiple WIA programs may be enrolled concurrently in multiple WIA and one-stop partner programs.

Eligible youth who are 18 through 21 years of age may participate in the youth and/or adult program or both, depending on the services needed.

Once a participant exits WIA, the application, documentation, and verification process must be repeated before the individual can be enrolled/registered in WIA again.

LOCAL GUIDANCE ABOUT ELIGIBILITY FOR SERVICES AND CASE FILES—Include below local policy and procedures for determining eligibility for services and maintaining participant case records.

Determining Eligibility for Services and Maintaining Case Records:
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III. GENERAL TITLE I-B ELIGIBILITY CRITERIA

The general eligibility criteria apply to all Title I programs.

ELIGIBLE TO WORK— Section 9601.5 of the California Unemployment Insurance Code requires that “each state or local government agency or community action agency, or any private organization contracting with a state or local government agency, that provides employment services, including, but not limited to, job training, retraining, or placement, shall verify an individual's legal status or authorization to work prior to providing services to that individual in accordance with procedures established under federal law.”

The documentation of an individual's employability (right-to-work) must be conducted in compliance with Title 8 CFR Section 274a.2 which states the federal requirements and procedures persons or entities must comply with when hiring, or when recruiting or referring for a fee, or when continuing to employ individuals in the United States. These requirements and procedures are published as the Immigration and Naturalization Service (INS) Form I-9, and take precedence over any State statute and regulation governing alien status determination.

Citizenship is a demographic reporting element required from time to time by the State for research and analysis. It is not necessary to document and verify citizenship, in addition to documenting an individual's employability.

SELECTIVE SERVICE/MILITARY STATUS— Local areas shall ensure that each applicable male participating in any local program or activity established under Title I-B of the Workforce Investment Act in their workforce investment area, or receiving any assistance or benefit under Title I-B, has not violated *Section 3 of the Military Selective Service Act*. All males who are at least 18 years of age and born after December 31, 1959, and who are not in the armed services on active duty, must be registered for the Selective Service. A youth who becomes 18 years of age while participating in a WIA program must register within 30 days of his 18th birthday [Reference: WIA Section 189(h)].

Items to consider: Occasionally, males who were subject to Selective Service System registration, but did not register and are now beyond their 26th birth date, apply for assistance from the WIA program. Local areas may develop policy and procedures for determining whether an individual knowingly and willfully failed to register. *Attachment 3* is DOL's TEGL 8-98, which provides federal guidance in applying *Section 3 of the Military Selective Service Act*.

Local policy and procedures for determining whether an individual knowingly and willfully failed to register:

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AGE—The following chart displays references to the Act and the regulations, the federally required age for participation, and the applicable Title I-B program.

REFERENCE	AGE	TITLE I PROGRAM
WIA Section 101(1)	18 or older	Title I-B – Adult
Title 20 CFR Section 663.110	18 or older	Title I-B – Dislocated Worker
WIA Section 101(13)	14 - 21	Title I-B - Youth

IV. PRIORITY TO SERVE ADULT LOW-INCOME APPLICANTS

The Secretary of Labor assumes that adult funding is generally limited because there are not enough adult funds available to provide services to all of the adults who could benefit from such services. However, the Secretary also recognizes that conditions are different from one area to another and funds might not be limited in all areas. Because of this, the regulations require that all local boards must consider the availability of funds in their area. In making this determination, the availability of other federal funding, such as *Temporary Assistance to Needy Families* and *Welfare-to-Work* funds, should be taken into consideration. Unless the local board determines that funds are not limited in the local area, priority for intensive and training services must be given to recipients of public assistance and other low-income individuals. States and local boards must establish criteria by which the local areas can determine the availability of funds and the process by which any priority will be applied [Reference: *Title 20 CFR Part 652 et al. Preamble, Subpart F—Priority and Special Populations, p. 49343*].

The methodology used to determine whether or not funding is limited in a local area is not currently defined. However, the State Board is interested in standardizing the methods that are used to determine if funds are limited in a local area and may develop policy for local areas to use in making this determination in the future.

Local boards may administer their priority for adult recipients of public assistance and other low-income adults to include intensive and training services for other individuals.

Process by which the priority for adult intensive and training services will be applied:
--

The determination of an individual's low-income status is discussed in Section VIII of this technical assistance guide.

V. ADDITIONAL ELIGIBILITY CRITERIA FOR DISLOCATED WORKERS

In addition to complying with Selective Service registration requirements and eligibility to work requirements, an individual must meet any one of the six following criteria to be eligible to receive dislocated worker services under Title I-B of the Workforce Investment Act. Unless otherwise specified, local policy, guidance, procedures and definitions may be established wherever there is flexibility authorized by the Act and the regulations.

An eligible dislocated worker remains eligible for assistance after dislocation as long as the individual has not been employed in a job since dislocation and prior to application that paid a wage defined by the local board as a self-sufficient dislocated worker wage or leading to self-sufficiency or providing more than stopgap employment.

Stopgap employment means work an individual does only because he has lost the customary work for which his training, experience or work history qualifies him (see “underemployed”). Employment would be considered "stopgap" if the salary were substantially below the salary of the individual's primary occupation and/or if he is working substantially under the skill level of his customary occupation [Adapted from kansasjobs.org.]. There may be times when stopgap employment provides a self-sufficient wage, e.g., contract employment or employment obtained through a temporary employment services agency. Such employment would not change the individual's dislocated worker status. The determination about whether or not an individual's employment since dislocation is stopgap employment must be made on a case by case basis and take into consideration an individual's personal, family, financial, and employment situation. (Individuals engaged in stopgap employment are reported as not employed.)

Once an individual is registered as a dislocated worker, the individual remains a dislocated worker until exited from the program regardless of employment status or earnings. If a participant becomes employed in a full time, permanent job that pays a wage defined by the local board as self-sufficient or leading to self-sufficiency, the participant may continue to be served in the program until he/she is formally exited from the program.

Dislocated Worker

There are six methods for determining that an eligible adult is a dislocated worker.

The first method has been formatted for clarity. It has three conditions that must be met: (A), (B) and (C). For (B), there are two options for meeting the condition: (a) or (b).

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The individual:

1. (A) Has been terminated or laid off, or who has received a notice of termination or layoff, from employment; **AND**
 - (B) (a) Is eligible for or has exhausted entitlement to unemployment compensation;
or
 - (b) Has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in WIA Section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings OR having performed services for an employer that were not covered under a State unemployment compensation law; **AND**
- (C) Is unlikely to return to a previous industry or occupation; or

Sufficient attachment to the workforce:

Unlikely to return:

2. Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any *substantial layoff* at, a plant, facility, or enterprise; or

Substantial layoff:

3. Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or for purposes of eligibility to receive services other than training services described in WIA Section 134(d)(4), intensive services described in Section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a *general announcement* that such facility will close; or

General announcement:

4. Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of *general economic conditions* in the community in which the individual resides or because of natural disasters;

General economic conditions:

5. Is a displaced homemaker [Reference: WIA Section 101(9) and (10)], or
6. ***Has voluntarily terminated employment, and is receiving, or has been determined eligible to receive unemployment compensation or has subsequently exhausted entitlement to unemployment compensation since terminating employment voluntarily, and is unlikely to return to a previous industry or occupation.***

The Act permits funds to be used for intensive and training services for workers: (1) as soon as they have layoff notices; or (2) 180 days before layoff if employed at a facility that has made a general announcement that it will close within 180 days.

Farmworkers and the Unlikely to Return Standard

The inherently seasonal nature of farmworker occupations has been incorrectly perceived by some practitioners as disqualifying under the “unlikely to return to work” standard in WIA, Section 101(9)(A). In fact, individuals that may have worked seasonally can be considered unlikely to return to work in a previous industry or occupation for a variety of reasons such as:

1. Change in family situation that requires higher income;
3. Disability that precludes returning to the same occupation;
4. Natural disaster that results in lost wages;
5. Loss of agricultural land;
6. Mechanization, or
7. Any significant variance to normal seasonal employment patterns, resulting in uncertain return-to-work dates.

Additionally, permanent closures or a substantial layoff from agricultural enterprises and facilities such as packaging, canneries, or farming are not excluded from the standard under WIA, Section 101(9)(B). The WIA, Section 101(9)(C) standard regarding those that were self-employed (including employment as a farmer, a rancher, or a fisherman) and are unemployed due to economic conditions that resulted from extreme or unusual weather patterns and agricultural market downturns can also apply to farmworkers.

Layoffs, Furloughs, Temporary Layoffs and Lockouts

Layoff means the permanent or temporary termination of employment of an employee because a position has been abolished, because of insufficient funds, because of lack of work, or for any other reason not reflecting discredit on the employee (such as, dismissal for inadequate performance, violation of workplace rules, cause, etc.).

Furlough means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other non-disciplinary reasons [Title 5 USC 7511(a)(5)]. As such, it is a temporary termination of employment or layoff.

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Lockout means any refusal by an employer to permit any group of five or more employees to work as a result of a dispute with such employees affecting wages, hours or other terms or conditions of employment of such employees [Section 1132.8 of the California Labor Code].

DISCUSSION:

Individuals that are furloughed are laid off. Depending on the local definition of “unlikely to return,” the circumstances of the applicant, and local economic conditions, furloughed individuals may or may not be likely to return to their previous industry or occupation. The local areas are in the best position to make this determination. If these individuals are likely to return to their previous industry or occupation and need more than core services, they may be served as adults. In some cases, a business, company or corporation’s furloughs are in fact substantial layoffs and the unlikely to return provision does not apply. Local areas have the discretion to define “substantial layoff” since the definition depends on local economic conditions.

A lockout does not terminate the employer-employee relationship. Consequently, locked out employees are not eligible dislocated workers since they have not been terminated or laid off, are not eligible for unemployment compensation, and are likely to return to the same industry or occupation once the dispute is resolved. The same guidance applies to employees that are on strike. There may be locked out employees who for financial reasons seek other employment. These individuals may be served as adults.

In those cases mentioned above when individuals are not dislocated workers, local boards have the flexibility to serve them as adults even when there is a local priority to serve recipients of public assistance and other low-income individuals.

Displaced Homemaker

Displaced homemaker means an individual who has been providing unpaid services to family members in the home and who has been dependent on the income of another family member but is no longer supported by that income; and is unemployed or *underemployed* and is experiencing *difficulty in obtaining or upgrading employment* [Reference: WIA Section 101(10)].

Difficulty in obtaining or upgrading employment:
--

UI PROFILING—*The Governor has determined that UI profiling methodology and referral process meets the dislocated worker eligibility criteria in WIA Section 101(9).* In such instances, no further documentation is needed to establish the *unlikely to return* criterion at WIA Section 101(9)(A)(iii) [Reference: Title 20 CFR Part 652 et al. Preamble, Subpart A—One-Stop System, p.49316].

Other Related Definitions

The following definitions apply to all Title I-B WIA programs.

EMPLOYED—An employed individual is currently working as a paid employee or who works in his or her own business, profession or farm, worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family, or is one who was not working, but has a job or business from which he or she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, whether or not paid by the employer for time-off, and whether or not seeking another job.

NOT EMPLOYED—An individual who does not meet the definition of employed or who, although employed, has received notice of termination of employment, ***or has been engaged in stopgap employment since dislocation.***

NOTE: These definitions are used to calculate some of the core indicators of performance for adults and older youth.

NOTE: This information is to be collected from the registrant at registration, not from wage records.

[Reference: WIA Title I-B Standardized Record Data (WIASRD), Item 115]

UNDEREMPLOYED—Underemployed means an individual who is working part time but desires full time employment, or who is working in employment not commensurate with the individual's demonstrated level of educational attainment *[Reference: TEGL 14-00 Change 1]*.

VI. ADULT AND DISLOCATED WORKER REQUIREMENTS TO RECEIVE STAFF-ASSISTED CORE, INTENSIVE OR TRAINING SERVICES

In addition to the eligibility requirements in Sections II, III, and IV, to receive services, adults and dislocated workers must also meet the eligibility requirements below.

ELIGIBILITY FOR STAFF-ASSISTED CORE SERVICES—For performance measurement of the adult and dislocated worker programs, WIA distinguishes self-service and informational activities as separate from the other activities within the WIA service categories (staff-assisted core, intensive, and training).

When there is significant staff involvement with a customer in terms of resources or time, individuals receiving staff-assisted core services are required to be registered. Local areas may determine what constitutes a significant use of resources and a significant use of staff time. Describe below your local area's criteria for staff involvement requiring an individual's registration for staff-assisted core services:

Significant use of resources and a significant use of staff time:

ELIGIBILITY FOR INTENSIVE SERVICES—

Adults and dislocated workers who may receive intensive services:

(a) Adults and dislocated workers who are

- Unemployed,
- Have received at least one core service and are unable to obtain employment through core services, and
- Are determined by a one-stop operator to be in need of more intensive services to obtain employment; and

(b) Adults and dislocated workers who are

- Employed,
- Have received at least one core service, and
- Are determined by a one-stop operator to be in need of intensive services to obtain or retain employment that leads to self-sufficiency

(c) Individuals whose services are provided through the adult funding stream, and are determined eligible in accordance with the State and local priority system, if any, in effect for adults.

[Reference: WIA Section 134(d)(3)]

ELIGIBILITY FOR TRAINING SERVICES—

Training services may be made available to employed and unemployed adults and dislocated workers who:

- (a) Have met the eligibility requirements for intensive services, have received at least one intensive service under Section 663.240, and have been determined to be unable to obtain or retain employment through such services;
- (b) After an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, to be in need of training services and to have the skills and qualifications to successfully complete the selected training program;
- (c) Select a program of training services that is directly linked to the employment opportunities either in the local area or in another area to which the individual is willing to relocate;
- (d) Are unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as Welfare-to-Work, State-funded training funds, Trade Adjustment Assistance and Federal Pell Grants established under Title IV of the *Higher Education Act of 1965*, or require *WIA* assistance in addition to other sources of grant assistance, including Federal Pell Grants (provisions relating to fund coordination are found at Title 20 CFR Section 663.320 and *WIA* Section 134(d)(4)(B)); and
- (e) For individuals whose services are provided through the adult funding stream, are determined eligible in accordance with the State and local priority system, if any, in effect for adults.

[References: WIA Sections 134(d)(4)].

Describe your local area's criteria for self-sufficiency below:

Local criteria for self-sufficiency:

VII. ELIGIBILITY CRITERIA FOR YOUTH

Eligible Youth

An individual shall be eligible to participate in youth services if such an individual meets the definition of eligible youth:

- A. Is not less than age 14 and not more than age 21; and
- B. Is a low-income individual; and
- C. Is an individual who is one or more of the following:
 - 1) *Deficient in basic literacy skills*;
 - 2) A school dropout;
 - 3) Homeless, a runaway, or a foster child;
 - 4) Pregnant or a parent;
 - 5) An offender; or
 - 6) An individual who *requires additional assistance* to complete an educational program, or to secure and hold employment (may be defined at the State or local level per WIA Final Regulations Section 664.210).

[Reference: WIA Section 101(13)]

Describe your local area's definition and eligibility documentation requirements for *deficient in basic literacy skills* below:

Deficient in basic literacy skills:

A low-income youth is eligible for services if he or she *requires additional assistance to complete an educational program, or to secure and hold employment*. Definitions and eligibility documentation requirements related to this criterion may be established at the local level. Describe your local area's criteria, definitions, and eligibility documentation requirements below:

An individual who requires additional assistance to complete an educational program, or to secure and hold employment:

SCHOOL DROPOUT—The term *school dropout* means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. Youth enrolled in alternative schools are not school dropouts.

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A youth's dropout status is determined at the time of application and remains in effect throughout her or his participation [Reference: WIA Section 101(39); Title 20 CFR Sections 664.300 and 664.310].

OFFENDER—The term *offender* means any adult or juvenile who:

- A. Is or has been subject to any stage of the criminal justice process, for whom services under this Act may be beneficial; or
- B. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

[Reference: WIA Section 101(27)].

PREGNANT or PARENTING—The term *pregnant or parenting youth* means an individual who is under 22 years of age and who is pregnant, or a youth (male or female) who is providing custodial care for one or more dependents under age 18.

[Reference: WIA Sections 101(13) and 129(c)(5)(D)]

OUT-OF-SCHOOL YOUTH—An individual may be served as an out-of-school youth, if such an individual meets the definition of *eligible youth*, and

- A. Is a school dropout; or
- B. Has received a secondary diploma or its equivalent but is
 - 1. Basic skills deficient,
 - 2. Unemployed, or
 - 3. Underemployed.

[Reference: WIA Section 101(33)]

The DOL CLARIFICATION OF OUT-OF-SCHOOL YOUTH—All eligible youth are out-of-school youth except those who are attending any school and have not received a secondary school diploma or its recognized equivalent and except those who are attending post-secondary school and are not basic skills deficient [Reference: TEGL 14-00 Change 1].

TRUANCY—The California Department of Education publication *2002 Work Permit: Frequently Asked Questions* states that: A truant/dropout is in violation of California's compulsory school attendance laws and a school district is not permitted to sanction violation of those laws by issuing a permit to work. A truant/dropout is subject to arrest, and the parents are subject to criminal fines if the minor is found working without a work permit.

Five Percent Eligibility Exceptions

Not more than five percent of participants served by WIA Youth programs may be individuals who do not meet the minimum income criteria to be considered eligible youth if such individuals are within one or more of the following categories:

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- A. School dropout;
- B. Basic skills deficient, as defined in WIA Section 101(4);
- C. Are one or more grade levels below the grade level appropriate to the individual's age;
- D. Pregnant or parenting;
- E. Possess one or more disabilities, including learning disabilities;
- F. Homeless or runaway;
- G. Offender; or
- H. Face *serious barriers to employment* as identified by the state or the local board.

[Reference WIA Section 129(c)(5)]

Local boards may define the term *serious barriers to employment* and describe it in the local plan *[Title 20 CFR Part 652 et al. Preamble, Subpart B—Eligibility for Youth Services, p. 49349]*. Include your local area's definition of serious barriers to employment below:

Serious barriers to employment:

VIII. LOW-INCOME INDIVIDUAL DETERMINATION

To be eligible to receive youth services an individual must be low-income. Unless the local board determines that funds are not limited in the local area for the adult program, priority must be given to recipients of public assistance and other low-income individuals for intensive and training services. The Act defines low-income individual in Section 101(25). The definition of low-income individual applies to the priority to serve low-income adults and eligible youth. Related to the definition of low-income individual are the definitions of *poverty level*, *public assistance*, *family*, *dependent children*, *emancipated minor*, *out-of-family youth*, *lower living standard*, *homeless*, and *individual with a disability*. All of these definitions are listed below.

LOW-INCOME INDIVIDUAL—The term *low-income individual* means an individual, who:

- (A) Receives, or is a member of a family that receives cash payments under a federal, state, or local income-based public assistance program;
- (B) Received an income, or is a member of a family that received a total family income, for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, public assistance, and old-age and survivors insurance benefits received under Section 202 of the Social Security Act) that, in relation to family size, does not exceed the higher of:
 - 1. The poverty line, for an equivalent period; or
 - 2. Seventy percent of the lower living standard income level, for an equivalent period;
- (C) Is a member of a household that receives (or has been determined within the six-month period prior to application for the program involved to be eligible to receive) food stamps;
- (D) Qualifies as a homeless individual;
- (E) Is a foster child on behalf of whom state or local government payments are made; or
- (F) Is an individual with a disability whose own income meets the requirements of a program described in (A) or (B), but who is a member of a family whose income does not meet such requirements.

[Reference: WIA Section 101(25)]

Public Law 106-501 amended the Older Americans Act of 1965 by stating in part that, eligible individuals under the Older Americans Act may be deemed by local workforce investment boards established under Title I of the Workforce Investment Act of 1998 to satisfy the requirements for receiving services under such title that are applicable to adults. This is similar to the eligibility allowance under the Job Training Partnership Act.

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Title 42 of the United States Code, Section 3003 provides that full and special consideration shall be given to older citizens with special needs in planning such programs, and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need. (Local areas might consider including the number of referrals of older Americans to be accepted under Title I of WIA in its memorandum of understanding with one-stop providers of activities under the Older Americans Act.)

PUBLIC ASSISTANCE—The term *public assistance* means federal, state or local government cash payments for which eligibility is determined by a needs or income test. The statutory definition of public assistance contains a two-part test: (1) the program must provide cash payments, and (2) eligibility for the program must be determined by a needs or income test [Reference: WIA Section 101(37)].

FAMILY—The term *family* means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

1. A husband, wife, and dependent children
2. A parent or guardian and dependent children
3. A husband and wife

[Reference: WIA Section 101(15)]

DEPENDENT CHILDREN—*Dependent children shall be defined as individuals, aged 0-21, whose circumstances fall into one of the following categories:*

- A.** *Under the age of 18, who are not emancipated minors (emancipated minor is defined below), and are living in a single residence with their parent(s) or guardian(s).*
- B.** *Age 18-19 who are full-time students in a secondary school or equivalent, and are living in single residence with their parent(s) or guardian(s).*
- C.** *Age 18-21, who are not full-time students in a secondary school or equivalent, and are living in a single residence with their parent(s) or guardian(s), shall have their dependency established according to locally established policy and procedures.*

If the 18-21 year-old is a dependent family member (e.g., the youth is claimed as a dependent on the parent's income tax), then income is calculated based on wages, salaries, tips, etc. of all family members. If the older youth is determined not to be a dependent family member (e.g., the youth is not claimed as a dependent on the parent's income tax), the older youth's income is based on his or her own wages, salaries, tips, etc.

It is not possible to develop policy that will cover every situation. At some point, common sense, humanity and good case records must compensate for the deficiencies of policies to anticipate every situation.

Include below local policy and procedures for determining the dependency of older youth age 18-21 who are not full-time students in a secondary school or equivalent, and are living in a single residence with their parent(s) or guardian(s).

Local dependency policy and procedures:

EMANCIPATED MINOR—The *California Family Code*, Section 7002, defines *emancipated minor* as any person under the age of 18 years who:

- A. Has entered into a valid marriage, whether or not such marriage was terminated by dissolution;
- B. Is on active duty with any of the armed forces of the United States of America; or
- C. Has received a declaration of emancipation pursuant to California Family Code 7122.

OUT-OF-FAMILY YOUTH—***Court adjudicated youth separated from the family (including incarcerated youth), homeless, runaway, and emancipated youth for purposes of determining income eligibility are a “family of one.”***

POVERTY LEVEL—The *poverty level* means the income level at which families are considered to live in poverty, as annually determined by the Department of Health and Human Services [Reference: *published annually in the Federal Register*].

LOWER LIVING STANDARD INCOME LEVEL—The *lower living standard income level* (LLSIL) means the income level (adjusted for regional, metropolitan, urban, and rural differences and family size), determined annually by the Secretary based upon the most recent *lower living family budget* issued by the Secretary [Reference: *published annually in the Federal Register*].

INDIVIDUAL WITH A DISABILITY—The term *disability* means, with respect to an individual:

- 1. A physical or mental impairment that substantially limits one or more of the major life activities of such an individual;
- 2. A record of such an impairment; or
- 3. Being regarded as having such impairment.

[References: *WIA Section 101(17)*; *Title 20 CFR Section 664.250*; *Section 3 of the Americans with Disabilities Act of 1990*]

An individual with a disability whose own income meets the low-income criteria, but is a member of a family whose income does not meet the low-income requirements, is a low-income individual.

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HOMELESS—The term *homeless, homeless individual or homeless person* includes:

1. An individual who lacks a fixed, regular, and adequate nighttime residence; and
2. An individual who has a primary nighttime residence that is -
 - (a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
 - (b) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

[References: WIA Section 101(25)(D); Section 103 of the Stewart B. McKinney Homeless Assistance Act]

INCOME ELIGIBILITY DETERMINATION PROCESS— *Income eligibility* is a function of family resources and family size.

Income is:

- Monetary compensation for services, including wages, tips, salary, commissions, or fees before any deductions
- Net receipts from non-farm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expense)
- Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses)
- Regular payments from railroad retirement, strike benefits from union funds, worker's compensation, and training stipends (e.g., wages from the California Conservation Corp)
- Alimony, Military family allotments, or other regular support from an absent family member or someone not living in the household
- Private pensions, government employee pensions (including military retirement pay)
- Regular insurance or annuity payments (including state disability insurance)
- College or university scholarships (not needs-based), grants, fellowships, and assistantships
- Net gambling or lottery winnings
- Severance payments
- Terminal leave pay
- Social Security Disability Insurance payments

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Income is not:

- Unemployment Insurance
- Child support payments (including foster care child payments)
- Need-based Public Assistance payments (including TANF, Supplemental Security Income, Emergency Assistance money payments, and non-federally-funded general assistance or general relief money payments)
- Social Security Old Age and Survivors' Insurance benefit payments
- Financial assistance under Title IV of the Higher Education Act, i.e., Pell Grants
- Supplemental Educational Opportunity Grants and Federal Work Study
- Needs-based scholarship assistance
- Loans
- Veterans Benefits
- Income earned while the veteran was on active military duty and certain other veterans' benefits, i.e., compensation for service-connected disability, compensation for service-connected death, vocational rehabilitation, and education assistance
- Capital gains
- Any assets drawn down as withdrawals from a bank, the sale of property, a house or a car
- Tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury
- Non-cash benefits such as employer paid or union-paid portion of health insurance or other fringe benefits, food or housing received in lieu of wages
- The value of food and fuel produced and consumed on farms
- The imputed value of rent from owner occupied nonfarm or farm housing
- Medicare, Medicaid, food stamps, school meals, and housing assistance
- Allowances, earnings and payments to individuals participating in programs under this Act (except OJT wages)

[Adopted from Section 101(25)(B) and Training and Employment Information Notice 29-91]

When a federal statute excludes income received under that statute in determining eligibility for programs operated under other federal laws, such income is also excluded in WIA eligibility determination.

The total of included income for the most recent six-month period is multiplied by two to determine the annual income. The income from each family member is included in the total family income. The annual income is located on the published poverty/lower living standard guidelines according to family size (see above for determination of family size). Below is a sample table for illustrative purposes only.

SAMPLE CHART¹

Family Size							
	1	2	3	4	5	6	Each Add'l. add
70% LLSIL							
Annual	\$7,400	\$12,110	\$16,630	\$20,530	\$24,220	\$28,330	\$4,110
6 Months	\$3,700	\$6,055	\$8,315	\$10,265	\$12,110	\$14,165	\$2,055
100%	\$10,560	\$17,300	\$23,750	\$29,320	\$34,600	\$40,470	\$5,870
<u>Poverty Guidelines</u>							
Annual	\$8,350	\$11,250	\$14,150	\$17,050	\$19,950	\$22,850	\$2,900
6 Months	\$4,175	\$5,625	\$7,075	\$8,525	\$9,975	\$11,425	\$1,450

Since only the income received during the six-month period immediately prior to the individual's application for WIA funded services is used for income determination, the State annually publishes charts that show the six-month, as well as the annual, figures for each family size. An applicant's actual family income during the six-month income determination period can be compared with the six-month figures on the charts. ***If multiplying the six-month income by two, overstates the actual annual income, the actual annual income should be used.***

See *Attachment 1* for guidance about assessing and determining the annual income received.

¹ This chart is a sample. The income information changes annually and varies with locality.

IX. ELIGIBILITY DOCUMENTATION AND VERIFICATION

Describe your local area's eligibility documentation and verification policy and procedures below.

Eligibility documentation and verification policy and procedures:

Located within this technical assistance guide is a form for local areas to develop their own tables of documentation for establishing WIA eligibility for adults, dislocated workers, and youth programs.

Local areas may develop their own tables, or adopt in whole or in part, the prepared table provided in *Attachment 2*.

Local areas are responsible for ensuring that adequate documentation is contained in their participant case files to minimize the risk of disallowed costs. The State supports the development of a balanced local documentation and verification policy that is not excessively intrusive and burdensome and is, at the same time, a good faith and reasonable effort to establish WIA eligibility.

DEFINITIONS

In the context of establishing eligibility:

Verification means to confirm an eligibility requirement through examination of official documents, e.g. birth certificates, public assistance records, or speaking with official representatives of cognizant agencies.

Documentation means to maintain on-file physical evidence, which is obtained during the verification process. Such evidence would be copies of documents, completed telephone/document inspection forms, and signed applicant statements.

X. TABLE OF DOCUMENTATION TO ESTABLISH WIA ELIGIBILITY

ELIGIBILITY CRITERIA	ACCEPTABLE DOCUMENTATION
GENERAL ELIGIBILITY	
Birth Date/Age	
U.S. Work Authorization	
Selective Service Registrant	
DISLOCATED WORKERS	
Terminate/Laid Off	
Plant Closure/Substantial Layoff	
Self-employed	
Displaced Homemaker	
INCOME ELIGIBILITY	
Cash Public Assistance	
Family Income	
Family Size/Individual Status	
Food Stamps	
Foster Child	
Homeless	
Individuals with Disabilities	
OTHER	
Basic Literacy Skills Deficient	
School Dropout	
Homeless or Runaway	
Foster Child	
Pregnant or Parent	
Offender	
Requires additional assistance to complete an educational program, or to secure and hold employment	
Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals	
Individuals with Disabilities	
Other eligible youth who face serious barriers to employment as identified by the local board	

ASSESSING AND DETERMINING INCOME

Individuals normally receive wages or income payments under one of the following increments.

STRAIGHT OR SALARY—The straight pay is income received without variation in the gross pay from pay period to pay period. The information may be provided in a series of pay stubs or one, cumulative pay stub. The weekly gross pay is multiplied by 52 to determine the annual gross wages; bi-weekly is multiplied by 26; bi-monthly is multiplied by 24; and monthly is multiplied by 12.

Example 1: Bi-weekly pay stubs indicate a gross amount of \$548.

$$26 \times \$548 = \$14,248 \text{ is the annualized gross income}$$

Example 2: Year to Date earnings \$16,812 with bi-monthly payment. There were 18 bi-monthly payments of \$934.

$$16,812 \div 18 = 934$$

$$24 \times \$934 = \$22,416 \text{ is the annualized gross income}$$

VARYING—When reported earnings vary from pay period to pay period, the average of the earnings submitted is annualized. The earnings may be submitted on a number of pay stubs or on one, cumulative pay stub.

Example: Six weekly pay stubs report the following gross earnings: \$534, \$475, \$398, \$534, \$498, and \$534.

Add: $\$534 + \$475 + \$398 + \$534 + \$498 + \$534 = \$2,973$

Divide: $\$2,973 \div 6 = \495.50 is the average gross weekly earnings

Multiply: $\$495.50 \times 52 = \$25,766$ is the annualized gross income

INTERMITTENT—Earnings are varied and include periods of unemployment. With as much data as possible, annualized income is determined by adding the reported earnings.

A Sample Composite of Acceptable Documentation

INTRODUCTION

This attachment provides a sample composite of Title I-B eligibility criteria aligned with recommended documentation sources. A file copy of any one document listed per eligibility criterion is satisfactory, unless otherwise specified. Local areas may adopt the following table and definitions (in whole or in part) or develop their own tables, policies and procedures for documentation. See Sections IX and X of the technical assistance guide.

For cases where documentation cannot or may not be copied, and/or is not readily obtainable, documents may be inspected or information verified by telephone. Local areas may develop documentation inspection and telephone verification forms to document any Workforce Investment Act (WIA) eligibility criterion or provide guidance to case managers about what case notes must be included in a participant's hard copy or electronic file.

Applicant statements may be used when an item is unverifiable or it is unreasonably difficult for the applicant to obtain. A locally developed applicant statement form may be used or guidance provided to case managers about how to take acceptable applicant statements. The applicant statement may be prudently used wherever it is listed, as acceptable documentation in the table below and other documentation may not be easily obtained.

SAMPLE COMPOSITE OF DOCUMENTATION

ADULT AND DISLOCATED WORKERS	
GENERAL ELIGIBILITY CRITERIA (Verify each criterion unless specified otherwise)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
<p>BIRTH DATE/AGE</p> <p>Note: Applicants must be age 18 or older at the time of registration to participate in this program.</p>	<ul style="list-style-type: none"> • Baptismal or Church Record • Birth Certificate • DD-214 Form • Driver's License • Federal, State or Local Government Issued Identification Card • Hospital Record of Birth • Passport • Public Assistance/Social Service Records • School Records • Telephone Verification • Work Permit
<p>U.S. WORK AUTHORIZATION</p> <p>Note: For changes to the list of acceptable identity and work authorization documents since the November 1991 revision of the INS Form I-9, see Information Bulletin WIAB01-41, INS Form I-9 (Rev. 11/21/97)—Changes. Include a copy of the bulletin with the TAG.</p>	<ul style="list-style-type: none"> • Verification Document(s) that Satisfy List A of the I-9 • Verification Document(s) that Satisfy List B <u>and</u> C of the I-9
<p>SELECTIVE SERVICE REGISTRANT</p> <p>Note: Each male registrant 18 years of age or older born on or after January 1, 1960, must present evidence that he has complied with <i>Section 3</i> of the Military Selective Service Act.</p> <p>Each male who turns 18 years of age during WIA participation must also submit evidence that he has complied with the requirements of the Military Selective Service Act.</p>	<ul style="list-style-type: none"> • Acknowledgement Letter • Form DD-214 • Screen printout of the Selective Service Verification Internet site: www.sss.gov/regver/verification1.asp • Selective Service Advisory Opinion Letter • Selective Service Registration Card • Selective Service Registration Record (Form 3A) • Selective Service Verification Form • Stamped Post Office Receipt of Registration

DISLOCATED WORKERS	
ELIGIBILITY CRITERIA (Verify each criterion unless specified otherwise)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
ELIGIBILITY GROUP A –Terminated/Laid Off	
1. (A) Has been terminated or laid off, or who has received a notice of termination or layoff, from employment; AND	<ul style="list-style-type: none"> • Worker Adjustment and Retraining Notification Act (WARN) notice • Photocopy of a printed media article or announcement describing the layoff. The photocopy must include the name of the medium in which published and the date of publication • Employer or union representative letter or statement • Applicant Statement
(B) (a) Is eligible for or has exhausted entitlement to unemployment compensation; or	<ul style="list-style-type: none"> • Unemployment Insurance Records • Statement by an Unemployment Insurance representative
(b) Has been employed for a duration sufficient to demonstrate attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; AND	<ul style="list-style-type: none"> • Pay check stubs • W-2 and/or Tax Returns • Unemployment Insurance records • Statement by the employer or union representative • Statement by an Unemployment Insurance representative • Applicant Statement
(C) Is unlikely to return to a previous industry or occupation.	<ul style="list-style-type: none"> • Appointment Notice of referral to an Initial Assistance Workshop (IAW); or • Screen print of IAW schedule; or • Reemployment Plan generated from IAW; or • Invitation Letter to Self Employment Assistance (SEA) orientation; or • Screen print of SEA schedule. <p>NOTE: If one of the above is not available, documented telephone verification from the EDD field office will suffice.</p>

ELIGIBILITY CRITERIA (Verify each criterion unless specified otherwise)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
ELIGIBILITY GROUP A –Terminated/Laid Off (continued)	
<p>(C) [continued]</p> <p>Is unlikely to return to a previous industry or occupation continued.</p>	<ul style="list-style-type: none"> • Applicant Statement • Internet site, such as CalJOBS that indicates lack of industry/occupation availability • Screen print of Labor Market Information Division screens that indicates lack of industry/occupation availability • Doctor statement indicating applicant's inability to return to previous industry/occupation due to physical limitations • Vocational rehabilitation counselor's statement indicating applicant's inability to return to previous industry/occupation due to physical limitations • Employment Specialist's Determination
ELIGIBILITY GROUP B – Plant Closure/Substantial Layoff	
<p>2. Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;</p> <p>NOTE: In the case of downsizing or workforce reduction when it is unclear which employees will be affected a layoff notice is appropriate.</p>	<p><u>Closure or substantial layoff:</u></p> <ul style="list-style-type: none"> • Bankruptcy documents, if declared under <i>Chapter 7</i>, Title 11 U.S.C. Notice of foreclosure or a similar document provided by a financial institution when such document clearly shows that a closure or mass layoff will occur as a result of its issuance • Copy of a printed media article/announcement describing the closure/mass layoff; the copy must include the name of the medium in which published and the date of publication • Statement from the employer or union representative • Statement from the employer's bank official, attorney, supplier, accountant, or another knowledgeable individual • Copy of a valid WARN notice provided by the employer or authorized representative • Telephone Verification • Applicant Statement <p><u>Notice of Layoff or Laid-off:</u></p> <ul style="list-style-type: none"> • Copy of a valid WARN notice provided by the employer or authorized representative • Copy of other specific notice to employee of intent to lay-off • Unemployment Insurance Form 501 (Separation Statement), when completed on both sides and signed by an employer representative • Employer or union representative letter or statement • Telephone Verification • Applicant Statement

ELIGIBILITY CRITERIA (Verify each criterion unless specified otherwise)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
ELIGIBILITY GROUP B – Plant Closure/Substantial Layoff (continued)	
<p>3. Is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; OR</p> <p>For purposes of eligibility to receive core services only, is employed at a facility at which the employer has made a general announcement that such facility will close.</p>	<ul style="list-style-type: none"> • Bankruptcy documents, if declared under <i>Chapter 7</i>, Title 11, U.S.C. Notice of foreclosure or a similar document provided by a financial institution when such document clearly shows that a closure or mass layoff will occur as a result of its issuance • Copy of a printed media article/announcement describing the closure/mass layoff; the copy must include the name of the medium in which published and the date of publication • Statement from the employer or union representative • Statement from the employer's bank official, attorney, supplier, accountant, or another knowledgeable individual
ELIGIBILITY GROUP C - Self-employed	
<p>4. Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters.</p>	<ul style="list-style-type: none"> • Bankruptcy documents listing both the name of the business and the applicant's name • Business License • Copy of a completed federal income tax return (Schedule SE) for the most recent tax year • Copy of a printed media article/announcement describing the closure/mass layoff; the copy must include the name of the medium in which published and the date of publication • Copy of articles of incorporation for the business listing the applicant as a principal • Applicant Statement
ELIGIBILITY GROUP D – Displaced Homemaker	
<p>5. Is a displaced homemaker.</p>	<ul style="list-style-type: none"> • Applicant Statement
VOLUNTARILY TERMINATED EMPLOYMENT AND UI ELIGIBLE	
<p>6. Has voluntarily terminated employment and has been determined eligible to receive UI benefits.</p> <p>NOTE: In the case of individuals not profiled UI benefit check stubs meet the documentation requirement.</p>	<ul style="list-style-type: none"> • Appointment Notice of referral to an Initial Assistance Workshop (IAW); or • Screen print of IAW schedule; or • Reemployment Plan generated from IAW; or • Invitation Letter to Self Employment Assistance (SEA) orientation; or • Screen print of SEA schedule. <p>NOTE: If one of the above is not available, documented telephone verification from the EDD field office will suffice.</p>

MISCELLANEOUS CRITERIA	
ELIGIBILITY CRITERIA (Verify each criterion unless specified otherwise)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
ADULT PROGRAM PRIORITY	
The definition of low-income individual applies to the priority to serve low-income adults and eligible youth.	
NOT EMPLOYED	
Use WIASRD, Item 115 definition.	<ul style="list-style-type: none"> • Applicant Statement
UNDEREMPLOYED	
Applies to displaced homemaker and older youth.	<ul style="list-style-type: none"> • Employment Specialist or Case Manager's determination • Telephone Verification • Applicant Statement

YOUTH	
GENERAL ELIGIBILITY CRITERIA (Verify each criterion unless specified otherwise)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
The general eligibility criteria for youth are the same as for adults and dislocated workers: Birth Date/Age; INS U.S. Work Authorization and Selective Service Registration. Acceptable documentation for these criteria is the same as adults and dislocated workers on page 38, the first page of this table.	
ECONOMIC ELIGIBILITY CRITERIA (Only one Economic Eligibility criterion in the left column need be verified)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
CASH PUBLIC ASSISTANCE Note: The applicant receives or is a member of a family that receives cash payments under a federal, state, or local income-based public assistance program.	<ul style="list-style-type: none"> • Authorization to Receive Cash Public Assistance • Public Assistance Check • Public Assistance Identification Card Showing Cash Grant Status • Public Assistance Records/Printout • Refugee Assistance Records/Printout • Signed Statement from Health & Welfare • Telephone Verification
FAMILY INCOME Note: Documentation should be provided for <u>each</u> applicable <i>inclusive</i> income source received by the applicant and each family member for the six-month income period immediately preceding the determination date. It is necessary to verify family size when utilizing family income eligibility. An applicant who claims little or no income must submit a statement that little or no income was received during the past six months, and that he or she was not employed for that period.	<ul style="list-style-type: none"> • Accountant Statement • Alimony Agreement • Award Letter from Veterans Administration • Bank Statements (Direct Deposit) • Compensation Award Letter • Court Award Letter • Employer Statement • Farm or Business Financial Records • Housing Authority Verification • Pay Stubs • Pension Statement • Public Assistance Records • Applicant Statement • Quarterly Estimated Tax for Self-employed Persons (Schedule C) • Social Security Benefits Records • Telephone Verification with Employer • Unemployment Insurance Documents and/or Printout

ECONOMIC ELIGIBILITY CRITERIA <small>(Only one Economic Eligibility criterion in the left column need be verified)</small>	ACCEPTABLE DOCUMENTATION <small>(Only one document from this column per eligibility criterion is required)</small>
<p>FAMILY SIZE/INDIVIDUAL STATUS</p> <p>Note: In addition to documentation of family size, additional documentation may required to establish that the family is living in a single residence.</p> <p>Persons ordinarily included in the definition of family, but claiming to be no longer dependent, must attest to their individual status. The head of household in which that person resides, if possible, should corroborate such statement. Individual must also show source of support.</p> <p>Note: A social security card is invalid if not signed by the number holder unless health or age prevent signature.</p>	<ul style="list-style-type: none"> • Lease • Telephone Verification • Birth/Baptismal Certificates or Church/Hospital Records of Birth • Decree of Court • Divorce Decree • Social Security Cards • Alien Registration Cards • Landlord Statement • Marriage Certificate • Medical Card • Public Assistance/Social Service Agency Records • Written Statement from a 24 Hour Care Facility or Institution (e.g. Mental, Prison) • Most Recent Tax Return Supported by IRS Documents (e.g. Form Letter 1722) • Applicant Statement
<p>FOOD STAMPS</p> <p>Note: The documentation listed must show that the applicant is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).</p>	<ul style="list-style-type: none"> • Authorization to Obtain Food Stamps • Food Stamp Card with Current Date • Food Stamp Receipt • Postmarked Food Stamp Mailer with Applicable Name and Address • Statement from County Welfare Office • Public Assistance Records/Printout • Telephone Verification with County Welfare Office
<p>FOSTER CHILD</p> <p>Note: Must be a foster child for which State or local government payments are made on his/her behalf.</p>	<ul style="list-style-type: none"> • Court Records/Documentation • County Welfare Office Records/Statement • Medical Card • Telephone Verification • Verification of Payments Made on Behalf of the Child • Written Statement from Cognizant Agency
<p>HOMELESS</p>	<ul style="list-style-type: none"> • Applicant Statement • Statement from a Social Service Agency • Statement from an Individual Providing Temporary Residence • Statement from Shelter • Telephone Verification

ECONOMIC ELIGIBILITY CRITERIA <small>(Only one Economic Eligibility criterion in the left column need be verified)</small>	ACCEPTABLE DOCUMENTATION <small>(Only one document from this column per eligibility criterion is required)</small>
<p>INDIVIDUALS WITH DISABILITIES</p> <p>Note: Disability status as well as income must be verified. The applicant's disability must constitute or result in a substantial barrier to employment.</p> <p>An individual with a disability shall be considered a family of one for eligibility purposes.</p>	<ul style="list-style-type: none"> • Letter from Drug or Alcohol Rehabilitation Agency • Medical Records • Observable Condition • Physician's Statement • Psychiatrist or Psychologist Diagnosis/Statement • Rehabilitation Evaluation • School Official Statement • Sheltered Workshop Certification • Social Security Administration Disability Records • Social Service Records/Referral • Veterans Administration Letter/Records • Vocational Rehabilitation Letter/Statement • Workers Compensation Records/Statement • Telephone Verification • Applicant Statement

ADDITIONAL REQUIREMENTS (Only one eligibility criterion in the left column need be verified)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
BASIC LITERACY SKILLS DEFICIENT	<ul style="list-style-type: none"> Locally defined, may include: <ul style="list-style-type: none"> Standardized Test School Records
SCHOOL DROPOUT	<ul style="list-style-type: none"> School Statement/Records Applicant Statement
HOMELESS OR RUNAWAY	<ul style="list-style-type: none"> Applicant Statement Statement from a Social Service Agency Statement from an Individual Providing Temporary Residence Statement from Shelter Telephone Verification
FOSTER CHILD Note: Must be a foster child for which State or local government payments are made on his/her behalf.	<ul style="list-style-type: none"> Court Records/Documentation County Welfare Office Records/Statement Medical Card Telephone Verification Verification of Payments Made on Behalf of the Child Written Statement from Cognizant Agency
PREGNANT OR PARENT	<ul style="list-style-type: none"> Birth Certificate Hospital Record of Birth Medical Card Statement from Physician Statement from School Program for Pregnant Youth School Records Telephone Verification Written Statement from Social Services Agencies Applicant Statement
OFFENDER	<ul style="list-style-type: none"> Court Documents Letter of Parole Police Records Statement from Halfway House Statement from Probation Officer Newspaper Telephone Verification Applicant Statement
IS AN INDIVIDUAL WHO REQUIRES ADDITIONAL ASSISTANCE TO COMPLETE AN EDUCATIONAL PROGRAM, OR TO SECURE AND HOLD EMPLOYMENT	<ul style="list-style-type: none"> Locally defined

5% EXCEPTION (Only one criterion in the left column need be verified)	ACCEPTABLE DOCUMENTATION (Only one document from this column per eligibility criterion is required)
SCHOOL DROPOUT	See page 49
BASIC LITERACY SKILLS DEFICIENT	See page 49
INDIVIDUALS WITH EDUCATIONAL ATTAINMENT THAT IS ONE OR MORE GRADE LEVELS BELOW THE GRADE LEVEL APPROPRIATE TO THE AGE OF THE INDIVIDUALS	<ul style="list-style-type: none"> • Telephone Verification with the School • Statement from School • Report Card • School Records
PREGNANT OR PARENT	See page 49
INDIVIDUALS WITH DISABILITIES	See page 48
HOMELESS OR RUNAWAY	See page 49
OFFENDER	See page 49
OTHER ELIGIBLE YOUTH WHO FACE SERIOUS BARRIERS TO EMPLOYMENT AS IDENTIFIED BY THE LOCAL BOARD	<ul style="list-style-type: none"> • Locally defined.

*****FORMATTED FOR ELECTRONIC TRANSMISSION*****

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION JTPA/SSS
	CORRESPONDENCE SYMBOL TDCP
	DATE November 4, 1998

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 8-98

TO: ALL STATE JTPA LIAISONS
ALL STATE EMPLOYMENT SECURITY AGENCIES
ALL STATE WORKER ADJUSTMENT LIAISONS
ALL ONE-STOP CAREER CENTER SYSTEM LEADS

FROM: DAVID HENSON
Director
Office of Regional Management

SUBJECT: Selective Service Registration

1. Purpose. To provide updated guidance to Job Training Partnership Act (JTPA) grantees on applying the Selective Service registration requirement and to rescind TEIN No. 20-94.
2. References. JTPA §604, Enforcement of Military Selective Service Act, as amended (MSSA); Training and Employment Guidance Letter (TEGL) No. 4-89; and Training and Employment Information Notice (TEIN) No. 20-94.
3. Background. Only those males who are subject to, and have complied with, the registration requirements of MSSA are eligible for participation in JTPA-funded programs and services. Section 604 of the JTPA, as amended, requires the Secretary of Labor to insure that each individual participating in any JTPA program, or receiving any assistance under the Act, has not violated the requirements of §3 of the MSSA (50 U.S.C. App. 453). This section requires that every male citizen, and every other male residing in the United States must register with the Selective Service System (SSS) between their 18th and 26th birth dates. The Director of the SSS and the Secretary of Labor are required to cooperate in carrying out these provisions.

RESCISSIONS TEIN NO. 20-94	EXPIRATION DATE Continuing
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DISTRIBUTION

In 1986, the MSSA was amended by Public Law 99-661, §1366 to require the registration status to be examined and confirmed as follows:

- (g) A person may not be denied a right, privilege, or benefit under federal law by reason of failure to present himself for and submit to registration under section 3 [50 U.S.C. App. 453] if - -
 - (1) the requirement for the person to register has terminated or become inapplicable to the person; and
 - (2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.

The Conference Report to the amendment clarified “that a nonregistrant is not to be denied any federal benefit if he can demonstrate that his failure to register was not knowing or willful.” This provision was added “in order not to penalize an individual with an obvious disqualifying handicap, such as total paralysis of the limbs, or an individual who has been honorably discharged from the armed services.” (see TEGL No. 4-89)

Occasionally, males who were subject to SSS registration, but did not register and are now beyond their 26th birth date, apply for assistance from the JTPA program. In the past, when grantees completed the “advisory form” for such applicants, the SSS responded with an “advisory opinion letter” which, in effect, ruled on an applicant’s compliance with the JTPA’s requirement to register with the SSS.

Since January 1995, the SSS has been issuing “status information letters” indicating an applicant’s Selective Service Status, in lieu of the previous system of “advisory opinion letters.” This current practice is pursuant to SSS’s determination that final decisions for disbursing federally financed domestic benefits, services, rights, or training, rests solely with the various provider agencies which disburse them. In the case of JTPA, these provider agencies are the SDAs and SSAs.

- 4. Policy. The SDA/SSA programs disbursing services or benefits have the responsibility for deciding the above cases and determining eligibility for services or benefits on a case-by-case basis.
 - a. Males between the Ages of 18 and 26. Individuals who are required to register, but have not registered, and have not yet reached their 26th birth date, should be referred to SSS for registration prior to enrollment in JTPA.
 - b. Males Over the Age of 26 Who Did Not Register. Any male over 26 years old who possesses a “Status Information Letter” from the SSS indicating that he was required to register, but did not, and now cannot be registered because the law does not allow for registration after the age of 26, is presumptively disqualified from participation in JTPA-funded services and activities. The burden then falls on the applicant to provide evidence explaining why he failed to register with the SSS. This could include a

written explanation from the applicant, stating his circumstances at the time of the required registration, and his reasons for not registering, together with supporting documentation.

Since the JTPA grantee is now authorized to make these determinations for eligibility purposes, the JTPA staff should evaluate the evidence presented by the applicant and make a determination regarding whether or not the applicant's failure to register with the SSS when he was required to register is consistent with the above cited amendment to P.L. 99-661, §1366. If after reviewing the evidence, the SDA/SSA determines that the preponderance of the evidence shows that a man's failure to register was not a knowing and willful failure and he is otherwise eligible, services may be granted. If the determination is that the evidence shows the applicant's failure to register was knowing and willful, JTPA services must be denied. Applicant's denied services should be advised of the available grievance procedures under JTPA. Decisions by the local program are appealable to the State (see Item 6.below).

5. Examples of Documentation/Evidence Which Could be Provided by the Applicant.

A nonregistrant should be encouraged to offer as much evidence and in as much detail as possible to support his case. Following are examples of documentation/evidence that may be of assistance to SDAs/SSAs in making a determination in these cases:

- a. Service in Armed Forces. A man provides evidence that he served honorably in the U.S. Armed Forces by submitting a copy of his DD Form 214 attesting to his service, or a copy of his Honorable Discharge Certificate. Such documents may be considered prima facie evidence that his failure to register with the SSS was not willful or knowing.
- b. Aliens Entering U.S. On or After Age 26. Alien males who entered the U.S. on or after attaining their 26th birthday are exempt from the Selective Service registration requirements. Immigration and Naturalization Service (INS) Form I-94 (Arrival/Departure Record) and INS Form I-551 (Alien Registration Receipt Card commonly called the "green card") held by aliens will show the birth date of the alien. Also, INS has granted legal status and employment authorization to some lawful seasonal agricultural workers (SAWs) and some formerly illegal aliens under the 1986 Immigration Reform and Control Act (IRCA).
- c. Immigrant Aliens. Immigrant aliens, and refugees, parolees, asylees, SAWs, and IRCA-legalized aliens with work permits can be enrolled into JTPA programs only after an SSS registration or exemption is established as outlined above. INS Form I-688 (Temporary Resident Card) will be helpful in establishing the alien's status.
- d. Former Illegal Aliens. Male aliens 26 years of age or older who entered the U.S. illegally and who were subsequently granted legal status by the INS (IRCA-legalized aliens) or who were born after December 31, 1959, but who are not registered with the SSS can be enrolled into JTPA only

after a “status information” letter (formerly called an “advisory opinion letter”) has been obtained from SSS. If SSS issues a status information letter that it has no evidence that such individuals knowingly and willfully failed to register, the individuals should provide the SDA/SSA reasons why SSS has no evidence of their registration, and in so doing, provide evidence to convince the SDA/SSA that they did not knowingly or willfully fail to register. The individuals can then be enrolled into JTPA programs, if they are otherwise eligible.

If SSS is silent on this question, then the SDA must make the determination, as described above (see TEGL No. 4-89, Item 5.). [It is important to remember that §167(a)(5) of JTPA prohibits participation of an alien without, legal status from INS, even if there is a determination that there is evidence to show the applicant did not knowingly and willfully fail to register with the SSS (see TEGL No. 4-89, Item 5.)].

- e. Non-Immigrant Aliens. Lawful non-immigrants on visas (e.g., diplomatic and consular personnel and families; foreign students; and tourists with unexpired Forms I-94, I-95A or Border Crossing Documents I-185, I-186, I-586, or I-444) are not required to register with the Selective Service, but must be authorized to work in the United States under §167(a)(5) to be eligible for JTPA.
 - f. Third Party Affidavits. Third Party Affidavits from parents, teachers, employers, doctors, etc. concerning reasons for not registering, may also be helpful to SDAs/SSAs in making determinations in cases regarding willful and knowing failure to register with the SSS.
6. Grievance/Appeal Procedures. The JTPA and its regulations provide a system for handling grievances, complaints, hearings, and appeal rights under JTPA. The specific procedures to be followed are developed at the local and State levels in accordance with the provisions of the Act and the regulations at 20 CFR Part 627 Subpart E. Under JTPA, the State is responsible for making sure that there is a process in place to handle JTPA complaints/appeals at the local level. If a person does not receive a decision at the local level within 60 days of filing a complaint or grievance or is dissatisfied with the decision they receive, they have the right to request a review of their complaint by the State. Please note that under federal rules, the State’s decision is final.
7. Action Required. States are requested to ensure that the information contained in this issuance is provided to all SDAs/SSAs, and other staff responsible for JTPA eligibility determinations and/or reviews.
8. Inquiries. Questions may be directed to your Regional Office. Additional information is available at the SSS web site: www.sss.gov. States, SDAs, and SSAs are encouraged to contact their legal staff if further assistance is required as local and State policies are developed.